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NORTHERN DISTRICT OF CALIFORNIA

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13 SUCCESSFACTORS, INC.

E-filing

14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16 SAN FRANCISCO DIVISION

18 SUCCESSFACTORS, INC., a Delaware  
19 corporation,

20 Plaintiff,

21 v.

22 SOFTSCAPE, INC., a Delaware  
23 corporation; and DOES 1-10, inclusive,

24 Defendants.

Case No. CV 08 1376 EDL

**[PROPOSED] ORDER GRANTING  
PLAINTIFF'S APPLICATION FOR  
EXPEDITED DISCOVERY**

14  
C

25 On March 11, 2008 at \_\_\_\_ A.M. in Courtroom \_\_\_\_ before the Honorable \_\_\_\_\_,  
26 the Court heard Plaintiff SuccessFactors, Inc.'s ("SuccessFactors") *Ex Parte* Application for an  
27 Order Allowing Expedited Discovery. \_\_\_\_\_ appeared on  
28

1 behalf of Plaintiff SuccessFactors, and \_\_\_\_\_ was present on behalf of Defendant  
2 Softscape, Inc.

3 **Order with Respect to Expedited Discovery**

4 Having reviewed and considered all papers on file and argument of counsel, and the matter  
5 having been submitted, the Court finds that Plaintiff has presented good cause for expedited  
6 discovery to develop the record before Plaintiff's motion for a preliminary injunction is heard, and  
7 Plaintiff's motion for expedited discovery is granted as follows:

8 1. Softscape, Inc. shall provide written, verified responses and responsive, non-  
9 privileged documents to SuccessFactors' First Set of Document Requests on or before March 17,  
10 2008.

11 2. Softscape, Inc. shall also appear, through one or more representatives, for an oral  
12 deposition pursuant to Federal Rule of Civil Procedure 30 (b)(6) on March 19, 2008 as noticed by  
13 SuccessFactors.

14 3. SuccessFactors has leave to issue and serve a subpoena immediately on each of third  
15 parties Verizon Internet Services, Inc. and Comcast Cable Communications, Inc. for return no later  
16 than March 17, 2008.

17 //

18 **Order with Respect to Preservation of Evidence**

19 The Court finds:

20 1. Plaintiff is entitled to a fair opportunity to prove its case without spoliation or loss of  
21 evidence.

22 2. Plaintiff may suffer great or irreparable injury to its ability to obtain all relevant  
23 evidence if the same is destroyed or lost before a hearing on a noticed motion for an injunction can  
24 be held.

25 GOOD CAUSE HAVING BEEN SHOWN, IT IS ORDERED AS FOLLOWS:

26 Defendant Softscape and its agents, servants, and employees, and all persons acting under,  
27 in concert with, or for them shall, during the pendency of this action:  
28

1           1.       Preserve all evidence, data, records, and things in their possession or control,  
2 including all electronic records, records of internet transactions or communications, and records of  
3 officers, directors, consultants or employees whether maintained on facilities provided by Softscape  
4 or otherwise utilized by such persons, related to:

- 5                   a.       The genesis, creation, review, or revision of the Presentation.
- 6                   b.       Facts in the Presentation that were received from SuccessFactors' actual or  
7 potential customers, or the compilation of such facts.
- 8                   c.       The basis for any assertions in the Presentation.
- 9                   d.       The identity of any actual, potential, or intended recipients of the  
10 Presentation or of any communications about the Presentation.
- 11                  e.       Communications of Softscape with any person not employed by Softscape  
12 (other than its attorneys) concerning the Presentation or any fact or assertion therein.
- 13                  f.       Communications among employees of Softscape concerning the  
14 Presentation or any fact or assertion therein.
- 15                  g.       Communications between Softscape and Sears, Regions Bank, Intelsat,  
16 David Sinkfield, ICMA Retirement, Harris-Williams, or any current or former  
17 SuccessFactors employee or consultant.
- 18                  h.       The user name "John Anonymous," associated e mail address  
19 "hcmknowledge2008a@gmail.com," and all communications from, with or concerning  
20 same.
- 21                  i.       Access from any Softscape computer to SuccessFactors' website, online  
22 customer community, or online demonstration environments, including but not limited to  
23 access via the user name "ACE275," and any information obtained from such access.
- 24                  j.       Dennis Martinek's relationship with Softscape or SuccessFactors.
- 25                  k.       Any data storage media for any computer that was involved in the creation,  
26 modification, collection of information for, sharing, or e-mailing of the Presentation.
- 27                  l.       Identity, access, and use of any computer associated with IP addresses  
28 68.236.68.19 or 82.108.171.66 or 24.34.56.79 or 98.216.168.122.

1 m. Relationship of Javier Cruz, Ely Valls, or New Millenium Shoe Corp. with  
2 Softscape or SuccessFactors and any communications among any of them.

3 n. Softscape's procurement of images of, copying of, or use of SuccessFactors'  
4 trademarks or Powerpoint template.

5  
6 **IT IS SO ORDERED.**

7  
8 Dated: March \_\_, 2008

9 \_\_\_\_\_  
10 The Honorable  
11 United States District Court Judge

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